

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:23-cv-00103-MR-WCM

SARAH BODDY NORRIS;)
ABIGAIL TEMOSHCHUK-REYNOLDS;)
AMY HAMILTON;)
ELIZABETH FLICKINGER;)
ELSA ENSTROM;)
ERICA DEATON;)
GINA DICKHAUS;)
JULIA WEBER;)
KARA ROBERTS;)
NICOLE MARTINEZ;)
NICOLE MATUTE-VILLAGRANA;)
NORA WATKINS;)
PAGEANT NEVEL;)
KATHRYN HUDSON; and)
ALEXANDER BERGDAHL,)

Plaintiffs,)

v.)

CITY OF ASHEVILLE;)
DEBRA CAMPBELL,)
in her official capacity as Asheville)
City Manager;)
D. TYRELL MCGIRT,)
in his individual capacity)
and official capacity as)
Director of the Asheville)
Parks and Recreation)
Department; and)
DAVID ZACK,)
in his official capacity)
as Chief of Police of the)
Asheville Police Department,)

Defendants.)

ORDER

This matter is before the Court on Defendants' Motion to Dismiss (the "Motion," Doc. 5), which was filed on June 16, 2023.

Plaintiffs filed an Amended Complaint on June 29, 2023. Doc. 12. See also F.R.C.P. 15(a)(1)(B).

"The general rule ... is that an amended pleading supersedes the original pleading, rendering the original pleading of no effect." Young v. City of Mount Ranier, 238 F.3d 567, 573 (4th Cir. 2001); see also Fawzy v. Wauquiez Boats SNC, 873 F.3d 451, 455 (4th Cir. 2017) ("Because a properly filed amended complaint supersedes the original one and becomes the operative complaint in the case, it renders the original complaint 'of no effect.'"); Colin v. Marconi Commerce Systems Employees' Retirement Plan, 335 F.Supp.2d 590, 614 (M.D.N.C. 2004) ("Earlier motions made by Defendants were filed prior to and have been rendered moot by Plaintiffs' filing of the Second Amended Complaint"); Ledford v. Eastern Band of Cherokee Indians, No. 1:20-CV-005-MR-DCK, 2020 WL 1042235 at 1 (W.D.N.C. March 3, 2020) ("It is well settled that a timely-filed amended pleading supersedes the original pleading, and that motions directed at superseded pleadings may be denied as moot").

IT IS THEREFORE ORDERED that Defendants' Motion to Dismiss Complaint (Doc.5) is **DENIED AS MOOT AS A MATTER OF LAW**. This denial is without prejudice to the filing of any motions challenging the Amended Complaint, if appropriate.

Signed: July 3, 2023

A handwritten signature in black ink, reading "W. Carleton Metcalf", written over a horizontal line.

W. Carleton Metcalf
United States Magistrate Judge

